

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

ANTHONY CARR

PETITIONER

VS.

CIVIL ACTION NO. 3:19-CV-274-DMB

NATHAN CAIN, Mississippi Corrections Commissioner;
LYNN FITCH, Mississippi Attorney General

RESPONDENTS

**RESPONSE IN OPPOSITION TO MOTION AND MEMORANDUM TO
STAY AND ABEY FEDERAL PROCEEDINGS (Docs. 40, 41)**

COME NOW, Nathan Cain, Mississippi Corrections Commissioner and Lynn Fitch, Mississippi Attorney General, through counsel and file this, their Response in Opposition to Carr's Motion and Memorandum to Stay and Abey these habeas corpus proceedings. (Docs. 40, 41).

Carr has failed to prove that he is entitled to a stay under United States Supreme Court precedent, set out in *Rhines v. Weber*, 544 U.S. 269 (2005). Though *Rhines v. Webber* requires Carr to prove all three factors set out there, he can prove none. Carr cannot prove good cause for failing to exhaust his remedies in Mississippi state court. He similarly cannot prove that the unexhausted claims are potentially meritorious. Finally, Carr has engaged dilatory litigation tactics which have delayed this proceeding and weigh against his request for a stay. Accordingly, Respondents ask this Court to enter an

order denying Carr's Motion for any and all of the reasons above, which are fully discussed in the accompanying Memorandum in Support.

WHEREFORE, PREMISES CONSIDERED, Respondents respectfully requests the Court enter an order, denying Carr's Motion to Stay and Abey these proceedings. (Docs. 40).

RESPECTFULLY SUBMITTED, the 12th day of September 2022.

LYNN FITCH
Attorney General of Mississippi

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By: /s/ Parker Proctor Jr.

CERTIFICATE OF SERVICE

I, Parker Proctor Jr., certify that I have electronically filed this document with the Clerk of the Court using the ECF system, which sent notification to all counsel of record, and mailed, via U.S. Mail, postage pre-paid to the following:

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THIS, the 12th day of September, 2022.

LYNN FITCH
Attorney General of Mississippi

/s/ Parker Proctor Jr.

Parker Proctor Jr.

Counsel for Respondent